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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,963	09/29/2003	Gurtej Singh Sandhu	303.693US2	5281
21186	7590	08/16/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			NOLAND, THOMAS	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/674,963	Applicant(s) SANDHU ET AL.	
	Examiner Thomas P. Noland	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 3-5, 7-14, 17-19 and 23-38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1 and 15 is/are rejected.
- 7) ☒ Claim(s) 2, 16 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The amendment filed June 9, 2005 has been entered.
2. Claims 3-5, 7-14, 17-19 and 23-38 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Dec. 2, 2004.
3. Claims 15-16 and 20 are objected to under 37 CFR 1.75(a) because of the following informalities: in claim 15, line 8 " mass " should apparently be deleted. (Alternatively after " a " in line 3 - - - mass - - - could be inserted.) Appropriate correction is required.
4. Claims 1 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Simon et al.

Note abstract, Fig. 1 and claims 6 and 8. Note weight responsive flow control is considered to be equivalent to mass flow control.

More specifically regarding claim 1 claim 8, lines 2-3 of Simon et al discloses a gate position sensor " at least one position sensor located within each of said sludge gates". They are inferred to include a transmitter in view of the disclosed signal transmission to the PLC disclosed in claim 8, lines 4-5. The PLC corresponds to the claimed receiver. The monitoring of dispensed flow disclosed in Fig .1 and indicated using computer monitor 74 in Fig.1 would inherently be at least an indirect indication of gate position.

Re claim 15 note the elements disclosed for claim 1. Additionally it is noted the hopper through which the sludge flows can be considered an inflow line. The gate is disclosed as being therein. Since the gate is movable it inherently has an actuator.

5. Claims 2, 16 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 6 and 21-22 are allowed.

7. Applicant's arguments filed June 9, 2005 have been fully considered but they are not persuasive. Applicant argued that claimed elements in claims 1 and 15 were not disclosed. As examiner has further illustrated at applicant's request it is seen that all claimed elements are demonstrated or readily inferable from the applied reference. Applicant's arguments regarding claims 20 and 21 were persuasive at least to the extent upon further consideration at least the limitation relating to an actuator for oscillating the gate between an open position and a closed position to control the gas flow in combination with the other elements claimed is not illustrated or made obvious in the applied references.

8. Applicant's reservation of the right to swear behind the applied reference is noted. While it is agreed applicant has such a right it is also noted that the presentation of evidence in the demonstration of support for such a right would appear if presented after final rejection to raise a new issue that could have been presented before final rejection.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. This application contains claims 3-5, 7-14, 17-19 and 23-38 drawn to inventions or species nonelected with traverse in the reply filed on Dec. 2, 2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

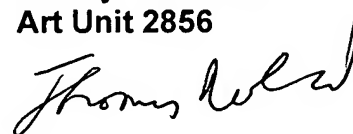
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2800 Customer Service at (571) 272-2815.

Thomas P. Noland
Primary Examiner
Art Unit 2856



Aug. 12, 2005